

### REMARKS

Claims 1-20 are pending. All claims 1-20 are believed to be allowable over the references cited by the Examiner as discussed below. Accordingly, a Notice of Allowance for the present application is respectfully requested.

### Amendment to the Specification

Paragraph [0001] is amended by way of this Amendment to update the co-pending U.S. Patent Application information.

### Rejection of Claims 1, 5, 6, 8, 9, 13, 15, 18, and 19 Under 35 U.S.C. §102(b)

Claims 1, 5, 6, 8, 9, 13, 15, 18, and 19 stand rejected under 35 U.S.C. 102(b) as being anticipated by Scott.

Independent claim 1 generally recites a headset having an audio receiver, a headset body, a microphone, and a flexible voice tube that defines a lumen. The flexible voice tube is bendable into a curvilinear operative shape and position while *preventing kinking* and retains the curvilinear operative shape and position throughout its operative use until further adjustment.

Independent claim 8 similarly recites a voice tube having a *kink-resistant* flexible tubular member, configured to be bendable into a curvilinear operative shape and *preventing formation of kinks* in the flexible tubular member. Independent claim 15 also generally recites a headset having an acoustic transmission means for acoustic transmission via a lumen, the acoustic transmission means being *kink resistant* and adjustable into a curvilinear operative shape.

As is known, kink resistance is such that the lumen generally retains its cross-sectional shape and size even when bent to a desired shape. (See also Specification, last sentence of paragraph [0023]).

In contrast, while Scott discloses a telescope voice pick-up tube 16 that includes "telescoping portions 16a, 16b allowing tube 16 to be extended or retracted such that the distal end 16c of the pick-up tube may be positioned adjacent to a wearer's mouth," (col. 3, lines 11-18), Scott makes no mention that the pick-up tube prevents or otherwise has resistance to kinking, as generally recited in each of independent claims 1, 8, and 15. That Scott provides telescoping portions 16a, 16b to allow the pick-up tube 16 to be extended/retracted so as to position the distal end 16c adjacent the wearer's mouth suggests that, while the tube 16 is made of a flexible material (col. 3, lines 18-20), the tube 16 is *not* kink resistant, or at the minimum, is

not amenable to being sufficiently manipulated so as to position the distal end 16c adjacent to the wearer's mouth for wearers having varying ear-to-mouth distances.

The Examiner contends that preventing formation of kinks in the flexible tube is inherent in the teachings of Scott. However, Scott only discloses that the voice pick-up tube 16 be made of "a plastic, or another suitable flexible and lightweight material" (col. 3, lines 19-20). The typical basic flexible plastic tubing, such as a common garden hose, without more, is flexible but is hardly kink resistant. Kink resistance may be provided in a variety of ways ~ such as those described in the Specification at, for example, paragraph [0024].

Thus Scott fails to teach or suggest that the flexible voice tube be configured to resist kinks as generally recited in each of independent claims 1, 8, and 15.

Withdrawal of the rejection of independent claims 1, 8, and 15 as well as claims 5, 6, 9, 13, 18, and 19 dependent variously therefrom, under 35 U.S.C. §102(b) is respectfully requested.

#### Rejection Under 35 U.S.C. §103

Claims 2, 7, 10, 14, 16, and 20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Scott in view of Pallai.

Claims 3 and 11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Scott in view of Pallai and further in view of Sawada.

Claims 4, 12, and 17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Scott in view of Wilcox.


However, the addition of the secondary references Pallai, Sawada and/or Wilcox does not make up for the deficiencies of Scott as discussed above. Thus, claims 2-4, 7, 10-12, 14, 16, 17, and 20 are also believed to be allowable for at least similar reasons as those discussed above. Withdrawal of the rejection of claims 2-4, 7, 10-12, 14, 16, 17, and 20 under 35 U.S.C. §103(a) is respectfully requested.

#### CONCLUSION

Applicants believe that all pending claims are allowable and respectfully request a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

In the unlikely event that the transmittal letter accompanying this document is separated from this document and the Patent Office determines that an Extension of Time under 37 CFR 1.136 and/or any other relief is required, Applicant hereby petitions for any required relief including Extensions of Time and/or any other relief and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 50-2315 (Order No. 01-7119).

Respectfully submitted,



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